on the trial of the other charge. The question of whether such charges should be tried together or, if they are not, whether such evidence is admissible, is one for decision in each particular case.

Appeal dismissed.

WONG CHIK AND ANOR. v. PUBLIC PROSECUTOR.

[Court of Appeal (Willan, C.J., Pretheroe and Taylor JJ.) April 28, 1950]

[F.M. — Criminal Appeal No. 18 of 1950]

Emergency Regulations, 1948, Regulation 4(1)(a), 7 and 8(1) — Certificate of Public Prosecutor — Admissibility of evidence of carrying ammunition on a trial for carrying arms only — Acts forming same transaction — Evidence Enactment, s. 6.

In this case the first appellant was charged with carrying a rifle and with carrying a hand-grenade and ammunition. The trial proceeded on the first charge only but evidence of his carrying the ammunition was admitted at the trial. The second appellant was charged with carrying a rifle. A certificate from the Public Prosecutor was produced before the Committing Magistrate but not at the trial. Both appellants were convicted and they appealed.

Held, (1) that Regulations 7 and 8(1) of the Emergency Regulations, 1948, only required that the certificate should be produced before the Committing Magistrate and as this was done in this case, there was no need to produce the certificate at the trial; (2) that as in this case the carrying of the hand-grenade and the ammunition formed part of the same transaction as the carrying of the rifle, the evidence relating to the hand-grenade and ammunition was rightly admitted under section 6 of the Evidence Enactment.

Case referred to:—

(1) *Jaafar bin Hussain v. Public Prosecutor* (1950) M.L.J. 154; 1 M.L.R. 67.

CRIMINAL APPEAL.

Ng Kok Thoy for the appellants.

N. L. Cohen for the respondent.

Cur. Adv. Vult.

The judgment of the Court of Appeal was delivered by:—

Willan, C. J.: — In this case the two appellants were convicted each of carrying a rifle in the Belangu area (Mentakab) in the State of Pahang on the 8th October, 1949, an offence contrary to Regulation 4(1)(a) of the Emergency Regulations, 1948. The learned trial Judge and both assessors were unanimous as to the guilt of each appellant.

Mr. Ng Kok Thoy, for both appellants, relied mainly on the following three grounds of appeal.

First, as regards both the appellants, he argued that the High Court had no jurisdiction to try the case under the Emergency (Criminal Trials) Regulations, 1948, because the certificate referred to in Regulation 7 thereof has not been produced at the trial.

Regulation 7 reads:—

"Where a person is charged with any offence against any written law and the Public Prosecutor certifies in writing that the case is a proper one for trial under these Regulations, such case shall be tried and disposed of in accordance with the provisions of Regulations 8 to 12 inclusive of these Regulations."

Regulation 8(1) reads:—

"No preliminary enquiry shall be held in respect of an emergency procedure case, but the Magistrate or District Judge" (now President of a Sessions Court) "before whom the accused person is brought shall, upon production of the certificate referred to in Regulation 7 of these Regulations, and whether or not a preliminary enquiry has already been commenced, forthwith commit the accused for trial by the High Court at such place, whether within the same State or Settlement or not, and upon such charges as may be designated by the Public Prosecutor."

In this case the certificate referred to in Regulation 7 was produced before the Committing Magistrate in accordance with the provisions of Regulation 8(1), and in our view this is all that is required. By that Regulation a person can only be committed for trial under the Regulations if the certificate is produced — a Magistrate or President of a Sessions Court has no power to commit under the Regulations without that certificate.

The committal record in this case, which in the usual way was forwarded by the Committing Magistrate to the High Court, contains the necessary certificate produced before him. As already stated, that is all that is required, and there is no need for that certificate to be produced at the trial.

The second ground of appeal was that, as regards the first appellant, there was not sufficient evidence of his identification.

It is true that the only direct evidence of his identification was that of one witness, Sergeant Cox. The learned trial Judge specifically brought this to the notice of the assessors. The assessors believed the evidence of Sergeant Cox and so did the learned trial Judge. There are no grounds why we should differ from them.

The third ground of appeal, again as regards the first appellant, was that evidence against him of carrying ammunition was admitted on a trial for carrying arms only. This appellant had two charges against him, first as regards carrying a rifle and, secondly, that at the same time and place he, the first appellant, was carrying a hand-grenade and ammunition. The trial proceeded on the first charge only.

From the facts there is no doubt that the carrying of the hand-grenade and the ammunition formed part of the same transaction as that of the first appellant carrying a rifle, and therefore the evidence relating to the hand-grenade and ammunition was rightly admitted under section 6 of the Evidence Enactment (Cap. 10). As to this particular point, reference should be made to the judgment of this Court in the case of *Jaafar bin Hussain v. Public Prosecutor*[1].

For these reasons we dismissed the appeals of both appellants.

Appeals dismissed.

BEH CHAI ENG v. PUBLIC PROSECUTOR.

[App. Crim. Juris. (Thomson, J.) May 20, 1950]

[Perak — Criminal Appeal No. 14 of 1950]

Penal Code, s. 193 — False evidence — Statements made during the course of investigation — Criminal Procedure Code, Chapter XIII — Form of the charge.

The appellant in this case was charged with and convicted for giving false evidence in the course of a police investigation conducted under Chapter XIII of the Criminal Procedure Code. The facts of the case were as follows:— On the 2nd October, 1949, a shophouse at Segari was burned in circumstances which led to the commencement the same day of a police investigation under Chapter XIII of the Criminal Procedure Code in relation to a charge of committing mischief by fire on the part of one Hoo Lieng Ping. The following day, and in the course of this investigation, the appellant was interviewed by the Officer-in-Charge of the Police Station of Segari and made a statement to him in the Malay language, to the effect that he had seen Hoo Lieng Ping pouring kerosene oil on the walls of the burnt shop and attempting to burn it. On 18th October, the appellant, in circumstances which are not very clear, made a further statement to the Officer-in-Charge of the Sitiawan Police District. This statement was made in a Chinese dialect and interpreted into English, and in the course of it he said that on the occasion of the fire he heard people saying that Hoo Lieng Ping had tried to set fire to this shop but, "I never actually saw him throw kerosene on the house". The charge against the appellant set out the material portions of the two statements made by him and went on, "one of which statements you either knew or believed to be false or did not believe to be true, and thereby committed an offence punishable under section 193 of the Penal Code." At the trial the prosecution produced evidence that the appellant had made both the statements in question, but they did not produce any evidence to show which of them was true and which of them was false. They were content to take up the position that the two statements were in such flat and direct contradiction to each other that one of them must necessarily, to the knowledge of the appellant, be false. In his defence the appellant stated that he had not told the Officer-in-Charge of the Segari Police Station that he had seen Hoo Lieng Ping pour kerosene oil on the walls of the house and that that officer was mistaken as to what he had said. The learned President accepted that the appellant had made the two statements he was alleged to have made and without coming to any conclusion as to which of them was true and which of them was false found that one or other of them must be false to the knowledge of the appellant. He accordingly convicted the appellant.

Held, that before an accused person can be held guilty under section 193 of the Penal Code, it is necessary to show by the evidence that the statement which is set out in the charge was a statement in answer to questions put by the investigating officer to the accused.

Cases referred to:—

(1) *The Empress v. Baikanta Bauri* I.L.R. 16 Cal. 349 at p. 354.

(2) *Queen-Empress v. Bhagwantia* I.L.R. 15 All. 11 at p. 13.

CRIMINAL APPEAL from the Sessions Court at Sitiawan.

S. M. Sharma for the appellant.

E. N. Griffith-Jones for the respondent.

Cur. Adv. Vult.

Thomson, J. : — After giving the facts as stated in the Head-notes, his Lordship proceeded. The grounds of appeal are :—

(1) That the charge against the appellant was defective in that it did not give sufficient information as to the offence alleged to have been committed by him;

(2) That by reason of section 113 of the Criminal Procedure Code the statements made by the appellant should not have been admitted in evidence;

(3) That the learned President was wrong in coming to the conclusion that the appellant was able to speak the Malay language in the form in which his statement to the Officer-in-Charge of the Segari Police Station was recorded.

The first two grounds of appeal are without substance. The charge follows the form set out in Form XXVII(11)4 contained in the Second Schedule to the Criminal Procedure Code, and the two statements made to the Police Officers were clearly admissible by reason of sub-section (iv) of section 113 of the Criminal Procedure Code which reads as follows :—

"(iv) when any person is charged with any offence in relation to the making or contents of any statement made by him to a police officer in the course of a police investigation under this Chapter such statement may be used as evidence in such prosecution."

As regards the third ground of appeal, it was submitted by Counsel, and it is confirmed by the senior Malay Interpreter attached to the Court, that the first statement made by the appellant as recorded and produced in evidence is couched in extremely elegant and correct Malay of a sort that was unlikely to issue